

**Minutes of the Regular Meeting of the
Buena Vista Planning and Zoning Commission
January 20, 2009**

CALL TO ORDER A Regular meeting of the Board of Trustees was called to order at 6:02 PM, Wednesday, January 20, 2010, at the Buena Vista Community Center, Pinon Room, 715 E. Main Street, Buena Vista, Colorado by Chairwoman Baker. Present were Chairwoman Baker, Commissioners William Woodhouse, Pete Palmer, Jed Selby, Town Administrator Sue Boyd, Town Planner Shannon Haydin, Town Treasurer Christine DeChristopher, Town Engineer Rachael Friedman, and Deputy Town Clerk Jennifer Dixon. Absent Commissioner Ken Keller

ROLL CALL

Deputy Town Clerk Dixon proceeded with the roll call and declared a quorum.

PLEDGE OF ALLEGIANCE

Chairwoman Baker led in the Pledge of Allegiance.

AGENDA ADOPTION

Chairwoman Baker called for amendments to the agenda. Add the proposed roadway improvements as the first agenda item. **Motion #1** by Commissioner Selby, seconded by Commissioner Woodhouse, to adopt the agenda as amended. Motion carried.

APPROVAL OF THE MINUTES

Chairwoman Baker called for approval of the minutes - there were no changes. **Motion #2** by Commissioner Selby, seconded by Commissioner Palmer, to adopt the minutes as presented. Motion carried.

PUBLIC COMMENT

Chairwoman Baker opened the public comment portion of the hearing at 6:05 PM. Persons signed up for public comment wished to wait until after the presentation of the associated topics. With no other comments received, the public comment portion of the hearing was closed at 6:06 PM.

NEW BUSINESS

A. Proposed Roadway Improvements and Financing Options

Sue Boyd gave a brief introduction and history on the topic. Rachel Friedman gave a presentation regarding the different proposed street projects/improvements and why they did not include Highway 24. Highway 24 is owned by C-Dot therefore there is a Highway 24 Corridor project that will use other financing. Christine DeChristopher went over her financial presentation and explained Town Revenues and how they are applied to Town amenities and services. She also explained how the tax would benefit the infrastructure and improvements for the town.

Public Comment opened at 6:35 and 6:35 closed

Planning and Zoning discussion followed. Commissioner Selby felt it was a very good idea, but questioned if there are other committees talking about recreation centers, are there other projects that this tax fund would assist in the future?

Sue Boyd stated that there has been some conversation regarding a recreation center, however it's not matured and is not currently being discussed. This proposal is specific to streets, it cannot be expanded. Impact fees do not address the needs throughout the town, they impact a specific development.

There was a question of what the current interest rate for municipal debt was. The answer was 4%.

B. Resolution Designating The Place For The Posting Of Notices Concerning The Meetings Of The Buena Vista Planning And Zoning Commission Of The Town Of Buena Vista

After a brief discussion the following motion was made.

Motion #3 by Commissioner Woodhouse, seconded by Commissioner Palmer, to designate posting at the Post Office, Town Hall, Website, and Chaffee County Times. Motion carried.

C. Comprehensive Sign Plan Review:

1. Subway - 720 Highway 24 South – Deepmda Sinjh

Planner Haydin went over her staff report and gave the following recommendation. Allow the three permanent signs to remain. The banners signs should also be able to remain until they are damaged. At that point in time, they can only be replaced under the provisions of the Temporary Sign Permit requirements.

Commissioner Selby stated that the promotional signs should be in the glass. Chairwoman Baker stated that the compromise was made for temporary banners would be permitted, from the beginning it was denied and this was the compromise. Planner Haydin stated that Mr. Sinjh had the opportunity to appeal to the Board of Trustees any decision made by Planning and Zoning.

After discussion the following motion was made:

Motion #4 by Commissioner Palmer, seconded by Commissioner Woodhouse, moves to accept staff recommendation to allow approval of the three permanent signs, allowing them to remain and approval of the banner signs on the site as long as they remain in good repair; replacement of the banners must be under the provisions of the Temporary Sign Permit requirements. Motion carried.

2. Rally Liquors- 402 Highway 24 South – CJ Enterprises

Planner Haydin went over her staff report. The applicant felt that these were two signs because of two boards, however staff feels they work together as one. This sign covers a damaged portion of the wall. The applicant feels that the banner looks better than a makeshift repair to the wall itself. Planner Haydin gave the following recommendation: Allow the 65 square foot sign to remain as part of the overall sign package for the property.

After a brief discussion the following motion was made:

Motion #5 by Commissioner Woodhouse, seconded by Commissioner Palmer. To approve the request to allow the 65 sq foot sign to remain on the property. Motion carried.

3. Laundromat -110 Linderman- John & Barbara Groy

Planner Haydin went over her staff report and made the following recommendation. Staff recommends allowing the sign to remain with the following conditions:

1. The applicant provides information on the placement of the sign that includes the distance from ground to the bottom of the sign and to the top of the sign. This information must be submitted to the Town within 30 days of a decision on this application.

2. If the sign becomes damaged or needs repairs, it must be removed and replaced with a sign that complies with the Sign Code or the new sign must be reviewed under the Comprehensive Sign Plan provisions of the Municipal Code. This requirement would not apply to routine maintenance such as repainting the sign face.

Mr. Groy stated the sign was there for a reason. Because they are off the path of the highway they need it to be seen. It was made approximately 10 years ago. The sign is made of raised wood letters, which can be repainted as needed. The sign also has a metal backing. The four-inch border makes it look finished. They have owned the laundry mat for 20 years and have had a sign up there since they owned it. Not replacing it will save them a great expense. The roof is false shake shingle roof and is more of a façade.

After a discussion the following motion was made:

Motion #6 by Commissioner Selby, seconded by Commissioner Woodhouse, to approve the sign with the provision when the business is sold the new owners would need to reapply. Motion carried.

4. Former True Value -401 Hwy 24 S – Sam Mick

Planner Haydin went over her staff report and made the following recommendation. One of the signs, the wall sign, is a pre-existing, non-conforming sign that has been allowed to persist despite not having been permitted for over almost 15 years. The new sign is similar in size and appearance to other signs in the Highway 24 corridor. The Highway 24 Corridor Planning process is likely to recommend a change in the overall visual nature of the corridor moving forward over the course of the next two decades. This process will provide better guidance for the aesthetic vision for this corridor. For this reason, staff recommends that the existing sign be allowed to remain and the new sign approved as proposed with two conditions:

1. Any redevelopment, which includes the demolition of the existing building on the site must result in the removal of all signs on this property.
2. No additional signs, with the exception of temporary or exempt signs permitted under the pertinent sections of the Code, are to be permitted on the property in the future.

Sam Mick commented that he would like to get the cabinets approved so that he could use it as a marketing tool. He would like to have the pole sign approved to be back-lit and 50 square feet as it goes with what is being used in that area. His potential tenants would prefer 70, but the next size down would be 50 square feet.

Motion #7 by Commissioner Selby, seconded by Commissioner Palmer, to approve the pre-existing sign remain as is and a new sign can be put on the highway as long as it complies with the current code.

5 minute break at 7:55 p.m. 8:00 p.m.

D. Special Use Permit for Premier Home Care, 430 Cedar Street

Planner Haydin went over her staff report and gave the following recommendation. Staff recommends that the Planning and Zoning Commission recommend approval of the Special Use Permit application for Premier Home Care with the following conditions of approval:

1. A Landscape Plan is submitted for review and approval by the Planning & Zoning Commission in accordance with Section 16-255 of the Buena Vista Municipal Code.
2. Parking cannot continue to be perpendicular to the right-of-way; parking must be parallel to the property line in conformance with the street design standards.
3. The applicant must obtain a building permit and complete any modifications necessary to be in compliance with the Building Code for the change of use of this property. The application must be submitted to the Chaffee County Building Department within 30 days of the final approval of the Special Use Permit by the Board of Trustees.

Public Comment was opened at 8:17 PM

Carolyn Dietz – 18455 Ponderosa Lane Buena Vista, CO 81211

Ms. Dietz had a question regarding the B1-OT zone. Planner Haydin explained that the B1-OT is B1-Old Town lots and the zoning requirements for that zone. Ms. Dietz wanted to know why a Special Use Permit would be necessary. Planner Haydin stated that Office Use is a permitted use in that zone, however the Medical Clinic portion of the business is what requires a Special Use Permit. Ms. Dietz wanted to know why they were allowed to get away without the permit for so long. Planner Haydin stated the town has been remiss about keeping things in place. This is not an excuse, but something we are trying to correct. There will be a "Use Permit" presented in the next month to keep this from happening in the future. Currently we are trying to change things in the town, but sometimes change happens as we catch things. We do have the ability to do a stop work order. But the Trustee's have not executed that right at this time.

Chairwoman Baker stated the town was remiss and lax in doing this, however it is also the responsibility of the business owner to be sure they are in compliance. Our town staff should not have to check every single one. It is the responsibility of the business owner to keep with the town code.

Ms. Dietz applauded the efforts the town was taking to amend that. We are all tax payers. They (Premier Home Health Care) are reimbursed by Medicare and Medicaid. Ms. Dietz wanted to know if they are in compliance with state regulations. Feels they should be in compliance for State and Federal regulations. Planner Haydin stated she approved a use permit for the state on the basis that there were no patients treated on site. We do not have the authority to regulate State and Federal law.

Ms. Dietz questioned if there were compliant ADA and other building requirements. Planner Haydin stated that that is based through the Building Dept. as the county is contracted with the Town of Buena Vista to check regulations on the town's behalf.

Ms. Dietz stated she does not support this Special Use Permit and wanted to know the steps and procedures Premier Home Health would have to follow next. Planner Haydin explained the next steps in the process.

Ms. Dietz questioned if there would be any repercussions for them operating without the proper permits and procedures. Planner Haydin stated that she would need the direction from the Board of Trustees regarding that.

Public Comment ended at 8:31 p.m.

Premier Home Health Care owners were not present to comment.

After a discussion the following motion was made.

Motion #8 by Commissioner Selby, seconded by Commissioner Woodhouse, to recommend approval to the Board of Trustees for the Special Use Permit with the following conditions:

1. A Landscape Plan is submitted for review and approval by the Planning & Zoning Commission in accordance with Section 16-255 of the Buena Vista Municipal Code.
2. Parking cannot continue to be perpendicular to the right-of-way; parking must be parallel to the property line in conformance with the street design standards.
3. The applicant must obtain a building permit and complete any modifications necessary to be in compliance with the Building Code for the change of use of this property. The application must be submitted to the Chaffee County Building Department within 30 days of the final approval of the Special Use Permit by the Board of Trustees.
4. Obtain an access permit from Public Works.

5. Planning and Zoning Commissioners requested Planner Haydin to contact the Building Department and Heath Department.

Motion carried.

E. Zoning Code Amendment Regulating Temporary Vendor Carts

Planner Haydin went over her staff report and gave reasoning to why staff feels that a code specific to vendor carts was necessary. Also note that where it goes in the code is subject to change before it is presented to the Board of Trustees, however the language will remain the same. There had been several complaints received over the summer regarding "vendor carts" and if they were permitted in the town.

Commissioner Woodhouse stated some of the concerns he had heard were regarding health safety standards being met and if sales tax was actually being collected.

Public comment opened at 9:52.

Judy Denny 36512 CR 71 Buena Vista, CO 81211 Kinko's Grill located at Buena Vista Drug store

Ms. Denny is a Temporary Food Vendor with her partner. They both live in Buena Vista full time and have done so for approximately 2 ½ years. They live, shop, and conduct business in this community.

When they decided to start their mobile food concession business they contacted the State, County, and Town and because they wanted to conduct their business in a straightforward businesslike manner. When they went to the town they obtained a Business License, filled out their permit and paid their fees. They did have to show proof of anything.

She requested a meeting with Town Hall and made some recommendations based on what they have applied for. She feels the Town should be last stop before issued a temporary use permit. She recommended requiring a copy of taxes paid, along with carbon copy of the check to the state. She has no problem to verify and show it to the Town. They should also request a copy of the state resale license, county food state food establishment license, and show (if you've been a vendor here in the past) you have paid your taxes.

She does not know what everyone else has done. A lot of people expressed to her they wanted more variety of food in this town. She also feels competition should not be a reason to exclude someone from operating in the town. They were "blown away" by the number of people that come in to raft, hike, etcetera in this community. Most want a fast meal. Most people are in and out of their place in 5 minutes. Some people have told her that if there were not food vendors in town they would simply bypass lunch and take care of errands.

They were careful in selecting a location to provide access without interfering with traffic flow. They approached Tom Smallwood because there was plenty of parking and they were not imposing on anyone. They were serving food that wasn't available at that time. They were trying to be diligent and responsible to set up and performed in the community for a particular amount of time. Feel that anyone else as a food vendor should be conscientious as we hopefully we have been.

Upon reviewing the ordinance she wanted more detail clarifying paragraph 3 "the safeguards." She also feels any complaints that are lodged based on competition are invalid.

Ms. Denny also stated that Chaffee County Health has never received a complaint from them. She submitted a petition signed by 84 people and presented it to the Board Chairwoman Baker accepted the petition for review and gave it to Deputy Town Clerk Dixon to be entered into the record.

Steve Perry, 36512 CR 371 Buena Vista, CO 81211 Kinko's Grill Buena Vista Drug Store

Had a question regarding interference with sight lines and such. They sit off 10 feet from curb and 10 feet from adjacent cross street. Police have clear vision from the stop sign. In fact they have been told they are farther back then required. They take public safety into account because these are our neighbors and friends and do not wish to put them in danger.

Vic Sydow Mountain Valley Treasures P.O. Box 33, Nathrup CO 81236

Mr. Sydow has been a vendor for several years one way or another. He had a hot dog cart in town and set up to bring business into the two businesses there. He did everything right. Paid sales tax, used commercial kitchen, and the Health Inspector came by once a month. He had a couple issues - one was that they wouldn't let him have chairs. When he did a show in Fairplay the Health Inspector checked him, found his cooler wasn't the right temperature, and shut them down at that time. Mr. Sydow suggested that since we were unable to see if sales tax has been paid until the next year the Town should do what they required when he did a show in Montrose where they had you place a \$50 bond before the show. After your sales tax had been paid they released the bond.

Planner Haydin stated that was a suggestion that was made. The Town Treasurer had some concerns regarding this, however it can be revisited.

Mr. Sydow feels that we do not need "fly by nighters" coming into town and taking our money. He feels that the Town of Buena Vista has plenty of restaurants and places we can buy tools and these businesses need every dollar they can get.

Karl Hintz 162 Windwalker Road, Buena Vista, CO 81211

Mr. Hintz read a letter into the record.

Mr. Hintz feels that businesses cannot be denied because it is considered competition for the current business. If a business is forced out they were not providing a service that was needed. Running a business is a gamble and you are not guaranteed success. Also feels that stores are in competition with each other. You cannot close True Value for selling hammers because Alco sells hammers.

Mark Lewis 18390 Trailwest Drive, Buena Vista, CO 81211

Mr. Lewis is the owner of the Shell Station (Alpine Oil) Property and Business Owner. He had two vendors at this location. He applauds the town for taking the pains to establish vendors and wants them to be safe, legal, and compliant. He had two vendors on his location because with the parks they are located in an area that can accommodate that. He would like some method to make provisions to have more than one cart on a property in the code.

Mr. Lewis had several people state they were grateful to have several choices for food that were quick options to eat. He had heard a lot of complaints about the carts taking business away from brick and mortar businesses; however they brought business to his brick and mortar business.

Commissioner Palmer asked how did it work out with K's next door.

Mr. Lewis stated they have got along for years, but this had strained the relationship. He would like to think they are still friends. He does not feel that it hurt K's and added an element next to the park.

Charlie Height 223 South Hwy 24, Buena Vista, CO 81211 K's Dairy Delight

Basically he and Mr. Lewis have kind of gotten along. Mr. Height calls them parasites instead of the vendors. One of the vendors was located on his side of the building and was trying to get some of his business, which is okay. His concern was sales tax and how do you control that as a business. Other businesses have to show records of their sales tax and sales. He stated that Kinko's do a good job. Mr. Height stated that Victor (Chaffee County Health inspector) has several concerns and is also concerned on area water and bathrooms. Mr. Height feels that parking is a problem they all have. Mr. Height feels that Shell does not have adequate parking for two vendor carts and the traffic that drives in for the station. There was a serious accident where the driver stated they were not able to see around a sandwich sign. There is a common area that is a street that people were parking in. Should have cash registers' and receipts and produce what they do in sales tax. He feels there should be someone for them to produce records and feels that regulations are needed.

Planner Haydin commented that she liked the idea of vendors placing a deposit down until proof of sales tax paid could be obtained.

Chairwoman Baker asked for clarification on whom "Victor" was. Mr. Height stated he is the Chaffee County Health Inspector.

Steve Perry requested further comment.

Mr. Perry stated that Planner Haydin in the proposed ordinances that the vendors produce proof of all permits, all tax paid and all other requirements paid in order to get that final permit. They have to prove their legitimacy. He cannot speak for other vendors; however they seemed to be honorable persons. They are willing to provide their honor in black and white and would that not be required to other businesses in town.

Feels that there is one set of businesses are required to conform and not others. He would like this ordinance so that it would put to rest the rumors and innuendos around town about their legitimacy. Customers were told that there were questions about if they were performing legally, and lived in the state, etcetera. He would like to clear their name.

Public comment closed at 9:32

Open to the Board members for discussion.

There were questions regarding about what fees would be required. Planner Haydin explained that the new fee schedule would be adopted at the next meeting of the Board of Trustees. Staff explained that fees were not listed in ordinances so they can be adjusted as needed. Staff was suggesting fees similar to the Temporary Use Permit Fees that they are paying now.

After discussion the following motion was made:

Motion #9 by Commissioner Selby, seconded by Commissioner Woodhouse, to recommend to the Board of Trustees to approve the Vendor Cart Ordinance with the condition of language is added for multiple vendors on one location by special review. Motion carried.

F. Zoning Code Amendment Regulating Special Events in the Town of Buena Vista

Planner Haydin reviewed her staff report and made the recommendation of approval of the Special Events Ordinance.

After a brief discussion the following motion was made:

Motion #10 by Commissioner Woodhouse, seconded by Commissioner Palmer, move to recommend to the Board of Trustees adoption of the ordinance special event Motion carried.

OLD BUSINESS

None at this time. A comment was made that the Trustees passed the parking ordinance was passed without any time limit. Attorney recommended re-addressing it when there is a parking issue.

CHAFFEE COUNTY REPORT

Chaffee county energy plan is underway. Katherine Wadsworth requested Planner Haydin coordinate an Energy Plan Joint Work Session with Board of Trustees and Planning and Zoning. Staff is proposing a work session on February 9 at 6:00 p.m.

STAFF REPORT

Planner Haydin is going to propose some new fees. The Town of Buena Vista captures no money for the building permits at this time. Currently all monies go to the county. She is proposing 10 percent of the Chaffee County Building Permit fee and when Chaffee County does not require a building permit the fee will be \$10.

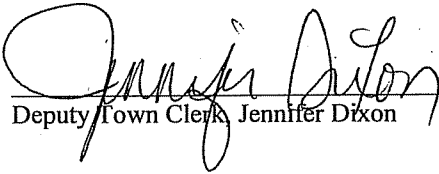
ADJOURNMENT

Motion #11 by Commissioner Selby, seconded by Commissioner Woodhouse, noting that there being no further business to come before the Board declared that the meeting be adjourned at 10:25 PM. Motion carried.

Respectfully submitted:



Evelyn Baker, Chairwoman



Deputy Town Clerk, Jennifer Dixon